

HOUSE BILL 307

By Hood

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29, Part 2 and Title 44, Chapter 17, to enact the Animal Population Control Act of 2007 and to make appropriations for a spay/neuter and rabies vaccination program for an indefinite period of time.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 44, Chapter 17, is amended by deleting part 5 in its entirety and by substituting instead the following:

Section 44-17-501.

This part shall be known and may be cited as the "Animal Population Control Act of 2007".

Section 44-17-502.

The general assembly finds that the population of unwanted cats and dogs brought about by a lack of adequate population control is unacceptable. These unwanted animals become strays and constitute a public nuisance and a public health hazard. The animals themselves suffer privation, are impounded, and most are destroyed at great expense to local governments. As Tennessee's human population growth rate increases, the population growth rate of the cat and dog populations will also increase bringing about more intake of animals at shelters and control facilities and raising the consequent disposition rates associated with such intake. The general assembly recognizes the economic hardships associated with animal population control, the problems associated with stray animals, and the societal impacts associated with failing to address these problems. It is the intent of the general assembly to establish a program to address cat and dog population control by providing a means by which population control may be subsidized for low-income residents.

Section 44-17-503.

As used in this part, unless the context otherwise requires:

(1) "Animal control agency" means any state, county or municipally authorized animal control agency;

(2) "Animal shelter" means a public or private facility which includes a physical structure that provides temporary or permanent shelter to stray, abused or injured animals;

(3) "Cat" means all domesticated members of the feline family, including feral members;

(4) "Department" means department of agriculture;

(5) "Dog" means all domesticated members of the canine family, including feral members;

(6) "Free roaming animal" or "stray animal" means a cat or dog with no known owner or keeper or not wanted by its owner or keeper or that may be deserted by its owner or keeper;

(7) "Keeper" means a person in possession or control of a stray animal who feeds that animal for at least three (3) consecutive days;

(8) "Owner" means any person, firm, partnership, association or corporation owning, keeping or harboring a cat or dog; and

(9) "Spay/neuter" means to sterilize a female animal by removing the ovaries or to castrate a male animal by removing the testicles or by FDA approved pharmaceutical sterilization.

Section 44-17-504.

(a) The "spay/neuter and vaccination fund" (hereinafter referred to in this part as the "fund") shall be established for the purpose of funding the spay/neuter and

vaccination program. All monies received by the department in accordance with the authority provided by this part shall be deposited into a separate reserve in the general fund and shall be earmarked for use by the department exclusively for veterinarian reimbursement and administrative costs associated with the program as set forth in this part and as provided in the general appropriations act. Any balance remaining in the fund at the end of any fiscal year shall be carried forward for the next fiscal year for the spay/neuter and vaccination program.

(b) The fund shall be composed of moneys derived from the following sources:

(1) Two hundred fifty thousand dollars (\$250,000), subject to appropriation, to be deposited in the fund for use during fiscal year 2007-2008; and

(2) A three dollar (\$3.00) surcharge added to each rabies vaccination administered in the state on or after July 1, 2007. It shall be the responsibility of the veterinarian administering the vaccination to forward collected surcharges, all applicable rabies vaccination verifications and any other required forms and certificates to the department on a monthly basis. The surcharge shall be deposited in the fund's reserve and shall become part of the fund's corpus.

(c) Beginning July 1, 2008, a sum equal to eighty percent (80%) of the fund's corpus shall become available to fund operating and administrative costs of the spay/neuter and vaccination program. The funding stream established in this section shall be evaluated on or before December 30, 2008, to assess the measurable impacts as set forth in Section 44-17-511 and to determine the potential necessity for an extension of subsidized funding compared to the ability of the fund's corpus to generate sufficient on-going revenues to provide a self-sustaining funding mechanism.

(d) The department is authorized to request and receive gifts, contributions, bequests, donations and grants from any legal and appropriate source to effectuate the purposes of the fund. Any monies received shall be deposited into the fund established by this section.

Section 44-17-505.

(a) On or after July 1, 2008, monies in the fund shall be available to subsidize spay/neuter and rabies vaccination procedures for cats and dogs owned or kept by parties qualifying for participation in the spay/neuter and vaccination program pursuant to the following eligibility requirements:

(1) An individual who has attained eighteen (18) years of age, who is a resident of the state, and is the owner or keeper of the cat or dog being spayed or neutered by a registered veterinarian shall:

(A) Establish proof of being a recipient of one (1) of the following programs:

(i) Federal food assistance;

(ii) TennCare or other medical assistance;

(iii) Social Security Disability (SSD);

(iv) Supplemental Security Income (SSI);

(v) Temporary Assistance for Needy Families (TANF); or

(vi) Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); and

(B) Establish further proof of identity through photo identification;

or

(2) An individual recognized by a county or municipal government or an authorized state, county or municipal animal control agency as being a stray animal keeper; or

(3) An organization that provides proof establishing that the organization is a 501(c)(3) animal welfare, animal rescue and/or animal humane organization registered in the state of Tennessee through a certificate of existence or authorization provided by the secretary of state and a copy of an IRS 501(c)(3) determination letter.

(b) The fiscal allotment for the first two (2) years shall be divided by the department as follows:

(1) Seventy-five percent (75%) of funding shall be dedicated to subsidizing the cost of sterilizing and vaccinating cats and dogs owned or kept by those participants qualifying under (a)(1) and (a)(3).

(2) Twenty-five percent (25%) of funding shall be dedicated to subsidizing the cost of sterilizing and vaccinating stray animals located in communities by participants qualifying under (a)(2) and (a)(3).

(3) An individual seeking a low-income subsidy pursuant to (a)(1) or (2) shall be limited to three (3) spay/neuter and vaccination procedures per fiscal year and shall be ineligible to seek additional funding by participating in the program under subdivision (a)(3).

(4) Organizations participating in the program subject to (a)(3) shall be limited to a maximum of twenty-five (25) spay/neuter and vaccination procedures per fiscal year per organization.

(5) If a spay/neuter procedure and a vaccination procedure are provided to the same cat or dog by the same service provider, then the procedures shall be considered one (1) procedure for the purposes of this subsection (b).

(c) The division of the program's fiscal allotment established above shall be re-evaluated by the department after two (2) years.

Section 44-17-506.

(a) Upon the effective date of this act, all cats and dogs shall be spayed or neutered and vaccinated for rabies prior to adoption from any of the following:

(1) A private animal welfare or rescue agency/group or organization;

(2) Any adoption clinic endorsed, operated, managed, or sponsored by an animal welfare or rescue agency, organizations, commercial enterprises or private parties or combination thereof; or

(3) An animal shelter.

(b) Exceptions to the provisions of subsection (a) shall be limited to the following:

(1) A cat or dog that has already been sterilized and is current on rabies vaccinations;

(2) A cat or dog that, following a medical examination by a licensed veterinarian, is found to be in a state of health which would preclude the safe and humane implementation of a spay/neuter procedure or rabies vaccination; or

(3) A dog or cat under the age of six (6) months provided that:

(A) The adopter posts a deposit of seventy-five dollars (\$75.00);

and

(B) In the absence of an exemption as provided in (b)(2), the deposit is held by the adopting agency until such time as:

(i) The deposit is rebated to the adopter upon proof that:

(a) The spay/neuter procedure has been completed within five (5) months of the date of adoption; and

(b) The cat or dog has received a rabies vaccination in accordance with the existing laws governing rabies vaccinations and such vaccination was not postponed beyond the seventh (7th) month of age; or

(ii) The deposit is disbursed subject to and in accordance with Section 44-17-507(c).

Section 44-17-507.

(a) The department shall adopt regulations necessary to carry out the provisions of this part including the:

(1) Format and content of all forms and certificates required under this part;

(2) Proof of eligibility under Section 44-17-505;

(3) Administration of the program under Section 44-17-508; and

(4) Any other matter necessary for the administration of the spay/neuter and vaccination program and the fund as provided by this part.

(b) Any person who knowingly falsifies proof of eligibility for, or participation in, any program established under this part, or who knowingly furnishes any licensed veterinarian with inaccurate information concerning ownership of a pet submitted for a spay/neuter procedure or rabies vaccination, or who falsifies a spay/neuter or vaccination certificate commits a class C misdemeanor, punishable only by a minimum fine of two hundred fifty dollars (\$250.00).

(c)

(1) In the absence of a medical exemption resulting from an examination by a licensed veterinarian who finds that a cat or dog has reached reproductive age but is in a state of health which precludes the safe and humane implementation of a spay/neuter procedure or rabies vaccination pursuant to Section 44-17-506(b)(1), the adopter's deposit shall be forfeited to the fund's corpus and disbursed in accordance with Section 44-17-504 after the time specified in Section 44-17-506(b)(2) has lapsed. The holder of the deposit shall immediately notify the department of forfeiture and shall forward the deposit to the department. Upon notification of forfeiture, the department shall proceed with enforcement.

(2) In addition to forfeiture of the deposit, which shall not be subject to suspension, the adopter shall have the animal spayed or neutered and vaccinated for rabies by a licensed veterinarian within a period of fifteen (15) calendar days from the date of forfeiture. The adopter shall pay the full cost of the spay/neuter procedure and rabies vaccination and shall be subject to a mandatory minimum fine of two hundred fifty dollars (\$250.00), plus any enforcement and court costs, all of which shall not be subject to suspension. If the adopter fails to act within fifteen (15) days, the minimum mandatory fine shall be doubled and the cat or dog forfeited to the original adopting agency.

(3) The department shall employ all available remedies at law in any court of competent jurisdiction in pursuing the collection of fines and seeking the return of a cat or dog.

(d) Any agency, organization, or other entity that fails to comply with Section 44-17-506(a) or Section 44-17-507(c) shall be subject to a mandatory minimum fine of five hundred dollars (\$500), which shall not be subject to suspension, for each violation;

provided that an agency's holding of a cat or dog until such time as such animal is the subject of an adoption application does not constitute a violation of this part.

(e) All fines collected pursuant to this section shall be deposited in and become a part of the fund's corpus.

Section 44-17-508.

(a) The department shall administer and enforce the spay/neuter and vaccination program pursuant to the provisions of this part. The department shall:

(1) Prescribe, distribute, collect and compile all necessary forms and certificates;

(2) Create a database for enforcement and accountability purposes;

(3) Maintain a list of participating veterinarians;

(4) Determine keeper and owner eligibility;

(5) Collect co-payments; and

(6) Ensure that the maximum number of spay/neuter and vaccination procedures are provided within the program's financial parameters per calendar year.

(b) Veterinarian reimbursement shall be through the department.

(c) An amount equal to six percent (6%) of the fiscal year's operating budget shall be utilized as an administrative processing fee and shall be paid by the fund to the department on a quarterly basis.

Section 44-17-509.

(a) Any veterinarian licensed in the state may register to participate in the spay/neuter and vaccination program established by this part. To register, a veterinarian shall file an application provided by the department and, upon approval by the department, sign a registration agreement accepting all pre-set fees and program

conditions. A term of registration shall be two (2) years. Pre-set fees shall be set by the department, in consultation with the Tennessee veterinary medical association, and shall be subject to revision at two (2) year intervals.

(b) The department shall reimburse a registered veterinarian for procedures and vaccinations performed on a monthly basis. The pre-set fee shall cover the cost of a pre-surgical medical evaluation, spay/neuter surgery, rabies vaccination and routine post-surgical care required by the servicing veterinarian's post-operative protocol. A keeper or owner shall be responsible for the payment of any additional fees for procedures mutually agreed upon and administered by the veterinarian that are not covered under this program.

(c) To receive reimbursement for spay/neuter procedures performed, a registered veterinarian shall submit a spay/neuter certificate signed by the owner or keeper of the dog or cat and the veterinarian together with a receipt of funds received by the owner or keeper to the department.

(d) To receive reimbursement for a rabies vaccination, a copy of the rabies vaccination certificate required by Section 68-8-103 shall be generated and provided to the department together with a receipt of funds received by the owner or keeper.

(e) The department's copy of spay/neuter and vaccination certificates and fund receipts shall be utilized for establishing and maintaining a database for enforcement, performance review analysis and tax credit reporting purposes.

Section 44-17-510.

(a) For taxable years beginning on or after January 1, 2008, any registered veterinarian who performs spaying or neutering procedures in accordance with the terms and conditions established under this part on animals that have been held in public animal shelters or in Section 501(c)(3) shelters shall be entitled to a credit against the

privilege tax levied pursuant to title 67, chapter 14, part 17. The amount of the allowable credit shall be ten dollars (\$10) for each spay/neuter procedure or rabies vaccination performed and shall not exceed the taxpayer's annual tax liability.

(b) The taxpayer shall submit proof of the number of applicable procedures performed in the taxable year to the department based on information requirements promulgated by department of revenue and explained in the occupational privilege tax instructions.

(c) The department shall compile a listing of the number of spay/neuter procedures performed each year by each clinic and each veterinarian and shall provide a copy of same to the performance review committee established in Section 44-17-511.

(d) The department shall compile a listing of the number of tax credits assigned to each veterinarian during the preceding tax year and report same to the department of revenue on or before February 28th of the following tax year.

Section 44-17-511.

(a) To measure the performance of the animal control spay/neuter and vaccination program, the department shall establish a standardized statewide yearly reporting system for the following:

(1) The number of spay/neuter surgeries performed pursuant to this part;

(2) The number of rabies vaccinations performed pursuant to this part;

(3) Animal shelter cat and dog intake and euthanasia statistics; and

(4) Other information the department deems necessary for the purposes of performance review analysis.

(b) There is hereby established a performance review committee whose duty it shall be to determine the success of the spay/neuter and vaccination program and to

assess the need for program improvement. The performance review committee shall be composed of:

- (1) The commissioner of the department of agriculture or the commissioner's designee, who shall act as chair of the committee;
- (2) A commissioner of the department of health or the commissioner's designee;
- (3) The president of the Tennessee veterinary medical association or the president's designee;
- (4) A representative of the Society for the Prevention of Cruelty to Animals (SPCA) of Tennessee;

(5) A representative of the Tennessee humane association; and

(6) Two (2) representatives of animal control organizations and two (2) representatives of animal rescue organizations to be appointed by the commissioner of the department of agriculture. Each of the four (4) members appointed pursuant to this subdivision shall serve four-year terms and may be subsequently appointed for additional four-year terms; provided that of the original appointees, one (1) appointee shall serve a term of one (1) year, one appointee shall serve a term of two (2) years, one appointee shall serve a term of three (3) years, and one appointee shall serve a term of four (4) years.

(c) The performance review committee shall meet as often as is necessary at times and in locations specified by the chair. The performance review committee shall issue recommendations to the department of agriculture, the chair of the senate general welfare, health, and human resources committee, and the chair of the house agriculture committee as often as the chair deems necessary, but no less often than annually. A majority of the performance review committee's membership shall constitute a quorum

and actions by the committee may only be taken by majority vote of those members present. The members shall receive no compensation for their services on the committee, but shall receive reimbursement for expenses incurred in attending meetings of the committee and for travel incident thereto, in accordance with the provisions of the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

SECTION 2. Tennessee Code Annotated, Section 4-29-230(a), is amended by adding the following language as a new, appropriately designated subdivision:

() Animal population control performance review committee, created by Section 44-17-511;

SECTION 3. The provisions of this act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.